

Appeal Decision

Site visit made on 26 September 2025

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

An Inspector appointed by the Secretary of State

Decision Date: 20 October 2025

Appeal Ref: APP/P4605/W/25/3368456

94 Church Road, Perry Barr Birmingham B42 2LF

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Zafran Khan against the decision of Birmingham City Council.
 - The application reference is 2024/07906/PA.
 - The development proposed is described on the Application Form as 'Conversion/change of use of existing bungalow to a 7 bed HMO, associated parking, amenity space and alteration to site access.'
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Zafran Khan against Birmingham City Council. This application is the subject of a separate decision.

Main issues

3. The main issues are:
 - Whether sufficient evidence justifies the loss of a family dwelling; and
 - The effect of the development upon the living conditions of surrounding residents, with particular regard to noise and disturbance.

Reasons

Housing Mix and Balance

4. The appeal site is a detached bungalow situated to the front of a long plot of land which appears to date from the mid-late twentieth century. There is a line of detached single and two storey properties along Church Road to the north-west which appear to have been constructed around a similar time to the appeal site and appear to be occupied as family dwellings. To the immediate north opposite Church Road and to the adjoining side boundary to the east are flatted developments with low rise flats of three to four stories with a larger medium sized tower block also opposite.
 5. The existing dwelling is a four bedroomed dwelling as a result of a consent for an eight metre rear extension where on my site visit it appeared the shell of the extension was somewhat complete, with the internals under construction.
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6. In undertaking changes of use from dwellings to Houses of Multiple Occupation (HMO) the Birmingham Development Plan (BDP) Policy TP30 seeks the delivery of a range of dwellings to meet local needs which is justified by responding to local needs assessments and the proposed density of housing for particular areas. BDP Policy TP35 seeks to make best use of existing dwelling stock, such as looking at initiatives to improve older private sector stock, prevent the loss to other uses through conversion or redevelopment and bringing residential properties back into use, amongst others. The Birmingham Development Management in Birmingham Development Plan Document (DPD) Policy DM11 is directly relevant to HMOs where the conversion of a dwelling to a HMO is required to meet a number of criteria such as examining ratio of HMO's within an area, frontages, accommodation quality, considerations around living conditions, and not resulting in the loss of uses that make important contributions to other council objectives, amongst others. The Policy is also supported by a Houses in Multiple Occupation Supplementary Planning Document (SPD) which gives further advice and guidance on the application of DMD Policy DM11, such as utilising of appropriate evidence, intensification and achieving good standards of living accommodation, amongst others.
7. The proposal would meet DPD Policy DM11 Criteria a, b, c, in terms of ratios and frontages of HMO's in the locality, with the main dispute between the parties as to whether the proposal meets criteria where the proposal would result in the loss of a use of a family dwelling and whether the evidence that justifies this is reasonable. The Council's evidence consists of the Birmingham Housing and Economic Needs Assessment (HEDNA). The HEDNA demonstrates a trend that not enough 3 and 4 bedroomed properties are being constructed to meet demand, and that there is a need/demand for these types of properties, particularly with this dwelling being a bungalow with additional suitability for those with mobility impairments. The SPD seeks that applicants demonstrate the housing need situation, with evidence such as marketing of properties and needs assessments.
8. In justifying the need/demand, the Appellant has submitted a copy of the Energy Performance Certificate (EPC) which rates the property as a 'G' predominantly because of the assumed lack of insulation to rooves and floors, as well as inefficient boiler and no radiators in the property with the dwelling reliant on inefficient electric heaters. An email¹ accompanying the Appeal documents from Cotton's Chartered Auctioneers mentions that the property was a former deceased estate which was put to auction during the pandemic in 2021. The property was in need of refurbishment and marketed between £175,000-185,000 with the current owner purchasing the property prior to the auction for £195,000, which was accepted as according to the Auctioneer, the offer was 'significantly higher' than the reserve price. The Appellant states that the 'G' rating of the EPC means that the property is not mortgageable and therefore would not appeal to families seeking the dwelling as a family home. However, no evidence from mortgage providers accompanies the appeal documents to demonstrate this.
9. It would appear that over the course of 4 years as evidenced on the Planning Officer's report that a number of applications to extend the property were lodged,

¹ Email from Andrew Barden (Cottons), RE 94 Church Road, Dated 14/04/2025

as well as an application around an annexe and HMO applications. It is unclear what measures have been sought to improve the energy efficiency of the property as the EPC suggests with a number of improvements that the property could reach a 'C.' It is noted that the Government currently provides a number of grant schemes for making properties energy efficient, for example assistance with insulation, solar panels, heat pumps etc. It is unclear whether the Appellant has sought to utilise these to increase the EPC. Additionally, the EPC is largely based on assumptions without any invasive investigations, such as the assumed extent of insulation, whereas if different, could result in a new assessment being needed and a higher rated EPC.

10. I do not follow the Appellant's logic that what essentially is an energy inefficient home is unfit for a family, but would be fit for occupation as a HMO. A HMO tends to be a low cost form of housing that is inhabited by persons that are more vulnerable than a family, and would also require thermally efficient facilities, like any family would. There are many homes such as the appeal site on the market for sale that are in need of refurbishment and that is all that would be required to make this property appropriate for family habitation.
11. The marketing evidence supplied by the Appellant relates to the previous sale of the house in 2021 during the pandemic, rather than the current situation where the dwelling has a rear extension and the ability to be a four bedrooomed dwelling once the extension is complete. There is no marketing submitted with regards to the current dwelling, which may appeal to a different buyer that is willing to refurbish a 4 bedrooomed dwelling to live in for a family. However, no such marketing activity has been submitted as part of the current application or appeal.
12. I appreciate in another appeal² that is submitted with the appeal which states that in that case that a single change of use would not materially harm the housing mix, however this is not the matter at hand in this appeal. The Reason for Refusal is around whether sufficient justification exists, which is needed to comply with BDP Policy TP35 and DPD Policy DM11, accompanied by the SPD. Having examined the evidence submitted as part of this appeal, I have found that no such justification as per Development Plan policy exists.
13. Consequently, in conclusion of this matter, I find that the loss of a family dwellinghouse has not been appropriately justified, and as such the proposal would fail to comply with BDP Policy TP35 and DPD Policy DM11, accompanied by the SPD, as defined previously.

Living Conditions

14. The Council's concerns in respect of this main issue is that the use of the building for seven unrelated persons would cause a detrimental level of disturbance to the surrounding residential environment. Whilst I appreciate the arguments put forward by the Appellant, that a four bedroom dwelling could in theory also have similar movements, particularly if each room is occupied by 2 adults, however a family dwelling does operate differently from a building comprising of seven different households. In the case of a large HMO, it would

² APP/P4605/W/22/3300681, Dated 5 January 2023,

not be uncommon for friends of each household visiting which does elevate the level of people and activity. Consequently, the comings and goings, and operation of the building exceeds that of a single family dwelling. There may be prolonged activity of the dwelling and communal rear garden, the comings and goings, deliveries, additional bin storage etc which is much different from a dwelling. As such it is quite reasonable to be of the opinion that there would be a noticeable difference between a family dwelling and that of a seven household HMO.

15. I do agree with the Appellant that behaviour is also a determinant of noise and behaviour, however there has been no management plan or information presented as part of the appeal as to how the HMO would operate and whether this would be appropriate. In this instance to be in accordance with DPD Policy DM11 it is for the Appellant to demonstrate that the proposal would not give rise to unacceptable cumulative impacts upon amenity, evidence of such that is not within this appeal.
16. With the above in mind, I conclude on this matter that it has not been demonstrated that the proposal would not result in unacceptable cumulative impacts to living conditions as a result of noise and disturbance. It follows therefore that the scheme would be contrary to DPD Policy DM11 and Policy DM2 which seeks that applications demonstrate that they will not result in unacceptable adverse impacts to living conditions.

Other Matters

17. I note that comments from interested parties refer to matters such as loss in property value; parking and use of Arden Court; and fire safety. The loss of property value is not a planning matter, and fire safety is dealt with via the buildings regulations process. The Council have assessed the application as being sufficient in terms of parking and highways safety. Given that the appeal has failed on two grounds it was not necessary to examine this matter.

Conclusions

18. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR